IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 14183 of 2006(L)

AGAINST THE ORDER IN EP.88/2004 IN
OS.108/2001 of MUNI-MAGI.COURT,MANANTHAVADY

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PETITIONERS:

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1. K.SASIDHARAN, S/O. KRISHNAN NAIR,
THAVALATHIL PUTHENPURAYIL VEEDU,
NALLOORNADU AMSOM, PULIKKAD DESOM,
P.O.NALLOORNADU.

2. M.V.RADHA, W/O. SASIDHARAN,
THAVALATHIL PUTHENPURAYIL VEEDU,
NALLOORNADU AMSOM, PULIKKAD DESOM,
P.O.NALLOORNADU.

BY ADV. SRI.RAJESH VIJAYAN

RESPONDENT:

KOMBY ABDUL NAZAR, S/O. MOOSSA HAJI,
PORAMMANNOOR AMSOM, KOMMAYAD DESOM,
P.O.KELLUR, MANANTHAVADY TALUK.

BY ADV. SRI.KRISHNA PRASAD. S
SRI.C.K.RAFEEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.14183/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF DECREE IN OS.108/01 OF MUNSIFF'S COURT, MANANTHAVADI.

EXT.P2 – TRUE COPY OF ORDER DT.14.3.06 IN EP.88/04 IN O.S.108/01

EXT.P3 – TRUE COPY OF PROCLAMATION OF SALE OF IMMOVABLE PROPERTY.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.14183 OF 2006

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DATED THIS THE 4th JULY, 2007

J U D G M E N T

I am not impressed very much by the grounds of challenge raised against the decision of the execution court to proclaim the properties belonging to the petitioners for sale. In fact, this Court also thought at the time of admitting the Writ Petition that what the petitioners require is time for paying off the decree-debt and accordingly imposed a condition that a sum of Rs.15,000/- shall be paid within three months from 31.5.2006. The learned counsel for the petitioners claims that the above amount has been paid within the time stipulated by this Court and there is no opposition by the learned counsel for the respondent to this submission. According to the counsel for the petitioners, payments subsequent to that also have been made. The balance, counsel submits, will not be much and he requests that the respondent be directed to file a balance statement. The learned counsel for the respondent submits that the objective of the petitioners is only to protract recovery of the decree-debt further since there is no scope at all for disputing the correctness of the claims in the E.P.

2. Whatever that be, I am inclined to dispose of this Writ

Petition issuing the following directions:-

The order of stay presently passed will continue for another five months from today. It is open to the petitioners to pay what according to them is the correct balance within three months from today. While making such payment, the petitioners will file a statement showing the details of the payments so far made with copy to the respondent. The court below will hear both sides on the correctness of the statement filed by the petitioners and take a decision as to what exactly is the balance due and will issue peremptory orders directing payment of the said balance. At any rate, the whole exercise shall be completed within the time frame of five months stipulated above and under no circumstances the order of stay will continue beyond that period.

The Writ Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

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